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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,520	12/12/2003	Nikolaos I. Komninos	1881	1581
24264	7590	10/28/2004	EXAMINER	
TIMOTHY J MARTIN, PC 9250 W 5TH AVENUE SUITE 200 LAKEWOOD, CO 80226			CYGAN, MICHAEL T	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/735,520	KOMNINOS, NIKOLAOS I.
	Examiner Michael Cygan	Art Unit 2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3,6,15-19,23,31,33-41,43 and 46 is/are rejected.
- 7) Claim(s) 4,5,7-14,20-22,24-30,32,42,44 and 45 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 December 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3 June 2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-3, 6, 15-17, 19, 23, 39, 40, 43, and 46 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2004/0050188 A1 (Richards).

Richards discloses the claimed invention, a leak detection instrument for monitoring gas leakage comprising instrument housing [10], gas sensor [22], AE microphone sensor [23], and processing circuitry (PDA and transmitter [50]) which processes the signals and sends them to output device [40]. The gas sensor can measure specific gases, thereby acting as a chemical properties leak detector. The sensors, visual LEDs and ultraviolet lights rest on circuit board [95], which is supported by mounting board [54]. The ultraviolet camera may detect fluorescent substances. An elongated "sniffer" wand may be attached to the housing. See entire document, especially paragraphs 0005, 0014, 0022-0037, 0042, and 0045-0050.

2. Claims 1-3, 15, 16, 39, 40, and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by JP4325489 A (Fujitsu). Fujitsu discloses the claimed invention, a leak detection instrument for monitoring gas leakage from a chamber [10] comprising instrument housing (including housings of 11 and 12), gas sensor [11], AE sensor [12], processing circuitry [15], and output device [16]. The gas sensor is a composition sensor (English language abstract) which can measure outgassing from a member in the chamber or leakage into the chamber, thereby acting as a chemical properties leak detector. See entire document, especially Figure 4 and columns 2-3.
  
3. Claims 1-3, 6, 15, 16, 31, 33-41, and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by 4,462,249 (Adams). Adams discloses the claimed invention, a leak detection instrument for monitoring gas leakage from a chamber [10] comprising instrument housing [27], gas sensor [35], vacuum pump [38], AE microphone sensor [22,25], processing circuitry (column 4 lines 25-31 and column 7 lines 15-44), and output device [27,29,31]. The gas sensor is a semiconductive gas sensor, thereby acting as a chemical properties leak detector. See entire document, especially Figure

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 2004/0050188 A1 (Richards) in view of US 5,445,026 (Eagan). Richards teaches the claimed invention except for the tube being flexible. Eagan teaches a semi-rigid sniffer tube for an AE handheld sensor; see column 4 lines 44-46. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a flexible sniffer tube as taught by Eagan in the invention taught by Richards to form the sniffer tube, since this would allow more user input into the design shape at any particular time.

***Allowable Subject Matter***

5. Claims 4, 5, 7-14, 20-22, 24-30, 32, 42, 44, and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, since the prior art neither discloses nor fairly teaches the claimed limitations.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: US 2004/0005715 A1 (Schabron) and US 6,234,021 B1 (Piety).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cygan whose telephone number is (571) 272-2175. The examiner can normally be reached on 8:30-6 M-Th, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MICHAEL CYGAN, PH.D.  
PRIMARY EXAMINER